

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

STELLA SATTER,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF ECOLOGY, et al.,

Defendants.

CASE NO. C09-5645BHS

ORDER DENYING
PLAINTIFF'S MOTIONS FOR
RECONSIDERATION

This matter comes before the Court on Plaintiff Stella Satter's ("Satter") motions for reconsideration (Dkts. 81 & 84) of the Court's order granting Defendants' motion for partial summary judgment on the issue of prior restraint (Dkt. 59) and the Court's order granting Defendants' motion for partial summary judgment regarding constructive discharge claim (Dkt. 79). The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file and hereby denies Satter's motions for the reasons stated herein.

I. FACTUAL AND PROCEDURAL HISTORY

For a more complete procedural history and factual background see the Court's order on Defendants' motion for partial summary judgment on the issue of prior restraint (Dkt. 59) and the Court's order on Defendants' motion for partial summary judgment regarding constructive discharge claim (Dkt. 79). On June 8, 2010, the Court granted Defendants' motion for partial summary judgment on the issue of prior restraint. Dkt. 59.

1 On June 22, 2010, Satter filed a motion for reconsideration (Dkt. 62) and on June 30,
2 2010, the Court denied the motion (Dkt. 66). On August 10, 2010, the Court granted
3 Defendants' motion for partial summary judgment regarding constructive discharge
4 claim. Dkt. 79. On August 24, 2010, Satter filed the instant motions for reconsideration
5 of the Court's orders on Defendants' motions for partial summary judgment. Dkts. 81 &
6 84. On August 25, 2010, the Court ordered Defendants to file a response to the motions.
7 Dkt. 86. On September 16, 2010, Defendants filed their response. Dkt. 87. The Court
8 granted Satter's request to file a late reply to Defendants' response (Dkt. 98) and on
9 October 21, 2010, Satter filed her reply (Dkt. 99).

10 **II. DISCUSSION**

11 Motions for reconsideration are governed by Local Rule CR 7(h), which provides
12 as follows:

13 Motions for reconsideration are disfavored. The court will ordinarily
14 deny such motions in the absence of a showing of manifest error in the prior
15 ruling or a showing of new facts or legal authority which could not have
been brought to its attention earlier with reasonable diligence.

16 Local Rule CR 7(h)(1).

17 When Satter filed her motions for reconsideration, the Court, considering the
18 timing of the discovery of the document she refers to as the "Suggestions Memo" and
19 what impact the document might have on the Court's previous orders on summary
20 judgment, ordered Defendants to file a response to the motions. However, having
21 considered Defendants' response to the motions, Satter's reply, and the Suggestions
22 Memo itself, the Court concludes that although the Suggestions Memo contains some new
23 facts, the facts are neither relevant nor material to the Court's decisions on the motions
24 for summary judgment. Satter's main argument in seeking reconsideration of the Court's
25 order on her constructive discharge claim is that the Suggestions Memo contains
26 instructions from Joy St. Germain, Director of Employee Services, to Ken Slattery
27 ("Slattery") on how to deal with Satter pending the investigation and thereby "answers
28


1 the court's question of what were objective criteria for reasonable and tolerable working
2 conditions that were commensurate with the allegations against [Satter], balanced against
3 the [Department of Ecology's] right to conduct a fair and impartial investigation." Dkt.
4 84 at 2-3. In addition, Satter argues that the Court should reconsider its *Pickering*
5 analysis of her prior restraint claim based on the Suggestions Memo because the objective
6 criteria contained in the memo shows that the restrictions placed on Satter were not
7 reasonable to effectuate Defendants' interests in light of the circumstances. Dkt. 81 at 10-
8 12.

9 Satter's arguments are flawed for two reasons. First, according to Defendants and
10 the declarations of Department of Ecology employees involved, this Suggestions Memo
11 contained just that, suggestions, and was not a list of instructions to Slattery. *See* Dkts.
12 89, 90, 91 & 92. Second, even if the Court considered the memo's suggestions as
13 instructions, it does not change the Court's analysis of the constructive discharge claim,
14 that the working conditions Satter was ultimately subjected to were reasonable and
15 tolerable under the circumstances (Dkt. 79 at 7-11) or the Court's conclusion under
16 *Pickering*, that the restrictions placed on Satter were "reasonable to effectuate
17 [Defendants'] interests in light of the circumstances." (Dkt. 59 at 10).

18 III. ORDER

19 Therefore, it is hereby **ORDERED** that Satter's motions for reconsideration (Dkts.
20 81 & 84) are **DENIED** for the reasons stated herein.

21 DATED this 19th day of November 2010.

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24 BENJAMIN H. SETTLE
25 United States District Judge
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